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*The Treaty of Guadalupe Hidalgo was signed in building at
far left ("Paz" engraved on front).*

**Inside: The Lessons of History:
The Treaty of Guadalupe Hidalgo**

The Lessons of History: The Treaty of Guadalupe Hidalgo

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Within the last few years Americans have become more aware of the importance of studying Mexico and its relationship to the United States. A number of thoughtful books have appeared analyzing the ways in which Mexico's social and economic problems have affected this country. Mexico has become even more important to American self interest and national security as recent controversies over drug smuggling, immigration, the foreign debt, oil, border violence, and Central America have heightened national awareness about the importance of good relations with our closest Latin American neighbor. Yet, for the layman, United States-Mexican relations remain veiled in mystery, partly because of a pervading and profound ignorance about Mexican history but also because the dynamics of the relationship between the two countries have remained the province of specialists. The outlines of this special relationship are revealed to us in both country's diplomatic and legal histories. As a shared inheritance of both countries this record provides a common ground for establishing mutual trust and understanding.

The Treaty of Guadalupe Hidalgo is the document that ended the Mexican War (1846-1848), and that is the oldest treaty still in force between the two countries. This agreement, more than 140 years old, has been important in shaping the international and domestic history. During the Mexican War, American leaders assumed an attitude of moral superiority in their negotiation of a treaty. The North Americans viewed the forcible incorporation of almost one-half of Mexico's national territory as an event foreordained by Providence, fulfilling a Manifest Destiny to spread the benefits of American democracy to the lesser peoples of the continent. With an arrogance born of superior military, economic, and industrial power, the United States virtually dictated the terms of settlement. The treaty established a pattern of inequality between the two countries, and this lopsided relationship has stalked Mexican-American relations ever since, making the resolution of mutual problems that much more difficult.

The Treaty of Guadalupe Hidalgo looms larger in the history of Mexico than in that of the United States. Partially because of the loss of valuable territory, the end of the war in 1848 insured that Mexico would remain an underdeveloped third world country well into the twentieth century. Mexican historians and politicians have interpreted for their nation the meaning of 1848. While their visions of the past have varied according to political philosophy and the climate of opinion, generally they have pointed to this treaty as a bitter lesson in American expansionism. The treaty has had implications for international law. Interpretations of the provisions of the treaty have been important in disputes over international boundaries, water and mineral rights, and, most importantly, civil and

property rights for the descendants of the Mexicans in the ceded territories. Since 1848 Indians and Chicanos have struggled to achieve some equality of political status within the U.S. In this they have sought to fulfill the promises first made in the Treaty of Guadalupe Hidalgo. This study provides some historical background for better understanding this struggle and why it has taken so long.

The treaty has been interpreted by the American courts, intellectual in the U.S. and Mexico, Chicano Activists and American and Mexican diplomats. The document has been a rich source for controversy. Its provisions have led to some unforeseen confrontations and difficulties between the two countries. The Treaty of Guadalupe Hidalgo is part of the common heritage of both countries and it has had a surprising vitality in influencing international issues. Since 1848 the United States and Mexico have entered into more than 100 treaties, conventions, and international agreements regulating many aspects of their relationship.¹ The Treaty of Guadalupe Hidalgo is the oldest international agreement still in force between two nations. Those portions of the original treaty still binding on their relations today are included in Articles VII and IX (land and citizenship provisions), Article XVI (the right to fortify ports) and Article XXI (renouncing war as a means of settling future disputes and providing for arbitration of these conflicts). Within the context of the range of issues covered by the history of international agreements, the Treaty of Guadalupe Hidalgo is not necessarily the most important treaty between the two nations. Certainly the problems of narcotics control, trade and economic cooperation, telecommunication, and immigration are areas of mutual concern which are not directly related to the older Treaty of Guadalupe Hidalgo but which are of the most pressing concern and diplomatic activity between the two countries today. Nevertheless the 1848 treaty by virtue of its scope has indirectly and directly influenced subsequent international agreement over boundaries, territorial waters, and economic claims of citizens affected by the international boundary. Beyond these areas the Treaty of Guadalupe Hidalgo can be interpreted as a platform upon which the superstructure of U.S.-Mexican international accord has been built.

An example of the international consequences of the Treaty of Guadalupe Hidalgo was the controversy surrounding the Chamizal. Article IV of the Treaty of Guadalupe Hidalgo had attempted to define the geographic boundaries between the United States and Mexico. The portion of the boundary described by the Treaty of Guadalupe Hidalgo, the Rio Grande River, soon became a source of conflict between the two countries, largely because of periodic changes in the river's course caused by flooding and accretion.

The most significant conflict arising from the 1848 treaty boundary involved an area of land known as the Chamizal, a 600 acre tract that eventually became part of downtown El Paso, Texas. El Chamizal, so named for the kind of bush that grew there, had been located south of the Rio Grande and thus part of Mexico in 1848, but by 1896, because of flooding and changes in the river's course, the tract became located north of the river within the territory of the U.S. For the next 115 years, the City of El Paso, State of Texas and U.S. government exercised political jurisdiction over this section of land. In this they were consistently challenged by the Mexican government.

The Chamizal controversy was a source of diplomatic tension between the two countries and as such it proved to be the impetus for the establishment of a Convention of November 12, 1884 to establish rules to govern the political status of "banco" lands, i.e. territories that were transferred from one side of the river to the other through changes in the river channel. Five years after the convention was established the countries jointly set up an International Boundary Commission with representatives from Mexico and the United States who would have the responsibility of settling of further disputes involving river and land boundaries. After detailed engineering studies the joint commission would recommend transfers of banco lands to Mexico or the U.S.

On November 14, 1895 the Mexican government sought to test the Mexican-American agreements flowing from the Treaty of Guadalupe Hidalgo by submitting a tract of land within the Chamizal zone for adjudication by the International Boundary Commission.² The Commission heard arguments from both sides but was unable to reach agreement. In 1911, the case was finally submitted to an Arbitration Tribunal (a specially enlarged session of the International Boundary Commission) with the prior understanding that both countries would abide by the decision. A major argument for the Mexican case involved reference to the original Treaty of Guadalupe Hidalgo boundary line which stipulated that the United States was acquiring lands lying north of the Rio Grande in 1848. The Tribunal's decision was to divide the tract, giving a portion to Mexico and leaving the rest with the U.S. The Tribunal's decision leaned heavily on the language and intent of the original Treaty of Guadalupe Hidalgo.³ The U.S. government, however, refused to accept the results of this arbitration decision arguing that the river's changed course was not caused by slow accretion as had been maintained by the Mexican government, but had been due to violent flooding (under the 1884 convention regulating banco lands both countries had agreed that violent change in the river bed would not be considered legitimate changes in the boundary). The American negotiator, Anson Mills, held that the arbitration decision was so vague and indeterminate that it was impossible to execute.

For the next fifty years the dispute nagged the relations between the two countries with various proposals being advanced, and rejected. The unstable political climate in Mexico during the revolution and the U.S. delay in diplomatic recognition made an early settlement impossible. One effect of this controversy was to create uncertainty about land titles in the Chamizal zone and as a result there followed a degeneration of the area into a slum.

Finally in 1963 President John F. Kennedy responded to suggestions from the Mexican government that the issue be laid to rest and as a result a settlement was reached along the lines of the 1911 arbitration award.

The Mexican reaction to the Chamizal issue illustrated the depth of feeling it had aroused. Here for the first time since 1848, Mexico was reclaiming part of its national domain from the U.S. There was in Mexico a tremendous emotional reaction. President Adolfo Lopez Mateos and President Lyndon B. Johnson met in El Paso and both spoke of how this act signified a new era in U.S. Mexican cooperation and brotherhood. The ceremonies of transfer were carried live on

Mexican T.V. to more than 75 million. September 24 was declared Chamizal Day in both Juarez and El Paso. Candle light parades were held; corridos composed; a massive fiesta celebrated.⁴

For the Mexican press the Chamizal resolution had a rich meaning: it was a symbol of the persistent efforts of Mexico to rectify past injustices, of the emerging international strength of Mexico, of the triumph of rule of law and peaceful negotiation, of the political strength of the ruling party (PRI), or a vindication of an independent Mexican foreign policy.

The significance of the Treaty of Guadalupe Hidalgo has been that it embodied promises that have not been kept. In 1848 the American and Mexican negotiators entered into an agreement with the understanding that the civil and property rights of the Mexican citizens who were being transferred to the United States would be respected. This understanding was not a "gift" of the U.S. congress or the president but an international agreement that emerged out of a complex negotiation that was subject to shifting political and military contingencies. In contrast to those historians who believe that the acquisition of the Mexican territories was inevitable, the final agreement between the two countries was more the result of a series of fortuitous events than it was forced by an American military victory. Twenty years later another foreign power, the French led by Archduke Maximillian, would "conquer" Mexico only to be swallowed up by the vastness of its geography and the resistance of its people. The U.S. was lucky to conclude the war when it did.

The spirit of the Treaty of Guadalupe Hidalgo is what has survived through the years. This spirit is embodied within Articles VII and IX as well as the Protocol of Queretaro that replaced the deleted Article X. In subsequent years, however, the promises the U.S. government made with respect to the conquered Mexican populations remained largely unfulfilled. This was not a result of the imprecision of the treaty language. After all the document was only a piece of paper whose enforcement depended entirely on the good will of the American people and their governmental institutions. This good will was not always immediately forthcoming in the years after 1848 and so treaty was repeatedly violated and rendered an empty promise. It joined the ranks of hundreds of other treaties that the U.S. made with native American tribes in the nineteenth century that were almost totally ignored at the time.

Today the Treaty of Guadalupe Hidalgo remains as a document that gives Mexicans in the U.S. a special relationship to the majority society. As a conquered people the Mexicans within the U.S. have been given special considerations under an international treaty. Although these considerations proved to be quite illusory when the U.S. government undermined the intention of the original document, Chicanos continue to have a historical claim on the collective moral conscience of America.

My book The Treaty of Guadalupe Hidalgo: A Legacy of Conflict (1990) sought to tell the story of how this important treaty came into existence and how, after 1848, various interpretations by different constituencies changed the course of both U.S. and Mexican history. The courts and the civil government have changed

their interpretations according to shifts in political and economic fortunes. Intellectuals in both countries have not given a high priority to an analysis of the treaty; not until very recently have the rights of those of Mexican descent north of the Rio Grande become an item of serious discussion within both the U.S. and Mexico. The people whose ancestors were most directly affected by the treaty, the Indians and Chicanos, began in the 1960s, to make a larger audience aware of the existence of the Treaty of Guadalupe Hidalgo. For them the treaty still had the power to coerce "the establishment" into making restitution, if not in land, then in human dignity and recognition for past injustices. On the international front, Mexican diplomats have invoked provisions of the treaty in their attempts to retain territory and sovereignty in the face of an overwhelming U.S. economic and military presence. Only on a few occasions has this power been effective: as during the Bucareli conference in the 1920s and, most recently in the Chamizal controversy. Within the past few years Indians and Chicanos have begun to realize that the treaty may be important in organizing on the international front. Using the treaty as a basis, they have formed a coalition to seek the support of international organizations for the recognition of the justice of their complaints.

Evidently the Treaty of Guadalupe Hidalgo refuses to go the way of other paper accords, such as the Louisiana purchase Treaty or the Florida Treaty. This is because the constituents have not allowed it to become an antiquarian artifact. The contemporary issues of Mexican immigration, the Mexican debt, drug smuggling, foreign economic competition are all, in indirect ways, affected by this agreement reached in 1848. A growing "Hispanic" minority within the U.S. will compel us to consider, again and again, the meaning of the Treaty of Guadalupe Hidalgo within American history. This exercise may be instructional for our diplomats and politicians as our country begins to forge new policies toward the Pacific Rim countries and the Near East. Hopefully, the lessons that can be learned from this record is that agreements between nations must allow for the imperfections of national self interest and provide for an institutionalized means for rectifying inevitable violations. As is evident in the history, the enforcement and interpretation of treaty provisions has been a periodic source of controversy both between the two countries and between the Indian and Mexican American population and the U.S. authorities. Unfortunately there was no provision for the Mexican government to verify the compliance of the United States with the terms of the 1848 treaty. Lacking military power, Mexico and other Latin American countries, as well as American minorities, have attempted to present their position by appealing to the rule of international law, or by appealing to the American people's sense of justice. The latter sometimes has been quite effective, as in the case of Nicaragua's appeal to the American people to stop funding of the Contras. But many issues lack the dramatic appeal that violence always lends and so the American public has not been easy to rouse when the issue has been one concerning the peaceful resolution of problems of poverty and civil rights.

The past twenty years have taught another lesson -- that minorities cannot always depend on the passive fairness of the system to defend their rights. The idea that an international treaty dealing with American minority groups can protect

rights and be used as an instrument for social and economic survival may appear to be a naive one. The record of treaty compliance between the U.S. and Mexico since 1848 is not a good one: the U.S. has not only repeatedly violated the Treaty of Guadalupe Hidalgo's provision for the peaceful settlement of future disputes (Article XXI) but it has also either ignored or violated international laws during military and political interventions in the twentieth century.

During this period of the increased political importance of third world countries, the historical moment may be ripe for Americans to have a new regard for international treaties, especially when they see them advancing a just national interest and insuring a more peaceful world. If this is the case then the Treaty of Guadalupe Hidalgo's ultimate significance may be that it can provide inspiration and hope for minority peoples everywhere that the American promise is yet to be fulfilled.

NOTES

1. For a full text of the treaty as finally ratified see U.S. Department of State, United States Treaties and Other International Agreements, 1967, Vol. 18, pt. 3, Washington, D.C.: G.P.O., 1969. The count of treaties in force as of 1986 was 104 not counting extensions and amendments. See U.S. Department of State, Treaties in Force 1986 (Washington, D.C.: G.P.O. 1986).
2. J.J. Bowden, The Ponce de Leon Land Grant, Southwestern Studies Monograph, No. 24 (El Paso: Texas Western Press, 1969) pp. 31-33.
3. Lic. Joaquin D. Casaus, El Chamizal: demanda, replica, alegato e informes (Mexico D.F.: Eusebio Gomez de la Puente, 1911), pp. 568-69, 583. Those who served on the Tribunal were Eugene Lafleur (France), Anson Mills (U.S.), and F.B. Pulga (Mexico).
4. Antonio Luna Arroyo, ed., Mexico recibe El Chamizal (Mexico D.F.: Editorial Justa, 1964) for an account of the media reaction to the Chamizal ceremonies.

BIBLIOGRAPHY OF SUGGESTED READINGS

Chacon Gomez, Fernando. "The Intended and Actual Effects of Article VIII of the Treaty of Guadalupe Hidalgo: Mexican Treaty Rights Under International and Domestic Law." Ph.D. dissertation, University of Michigan, 1977.

Liss, Sheldon B. A Century of Disagreement: The Chamizal Conflict 1864-1964. Washington, D.C.: University Press of Washington, 1965.

Pletcher, David M. The Diplomacy of Annexation: Texas, Oregon, and the Mexican War. Columbia, Missouri: University of Missouri Press, 1973.

Rives, George Lockhart. The United States and Mexico, 1921-1848. 2 Vols. New York: Charles Schribner's and Sons, 1913.

Ruiz, Ramon ed. The Mexican War: Was it Manifest Destiny? New York: Holt, Rhinehart and Winston, 1963.

Editor's Correction: In *Noticias del Puerto de Monterey*, Vol. XLLX, No. 1, the word Bibliography should be changed to "Footnotes."

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